



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 20, 1995

Mr. Craig Anthony Arnold
Matthews & Branscomb
One Alamo Center
106 S. St. Mary's Street
San Antonio, Texas 78205-3692

OR95-135

Dear Mr. Arnold:

As counsel for the City of Shavano Park (the "city"), you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31026.

The city received a request for "copies of all attorneys fees . . . since May, 1994." You say the city has released the requested fee bills, except for portions of the bills that you assert are excepted from required public disclosure based on section 552.107(1) of the Government Code.

This exception states that information is excepted from required public disclosure if

it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

Although section 552.107(1) appears to except information within rule 1.05 of the Texas State Bar Disciplinary Rules of Professional Conduct, the rule cannot be applied as broadly as written to information that is requested under the Open Records Act. Open Records Decision No. 574 (1990) at 5. To prevent governmental bodies from circumventing the Open Records Act by transferring information to their attorneys, section 552.107(1) is limited to material within the attorney-client privilege for confidential communications; "unprivileged information" as defined by rule 1.05 is not excepted under section 552.107(1). Open Records Decision Nos. 574 (1990) at 5; 462 (1987) at 13-14.

Thus, this exception protects only the essence of the confidential relationship between attorney and client from the disclosure requirements of the Open Records Act. Open Records Decision No. 574 (1990) at 5. Consequently, a governmental body may not withhold fee bills in their entirety under this exception, but may only withhold information about the details of the substance of communications between the attorney and the client. That section 552.107(1) protects only the details of the substance of attorney-client communications means that the exception applies only to information that reveals attorney advice and opinion or client confidences, including requests for attorney advice. *See* Open Records Decision No. 574 (1990).

You have marked a very small portion of information on the requested fee bills as within section 552.107(1) and state that

[i]f this information were available to the public, the specific nature of the City's inquiry for legal advice, which has been maintained as confidential, would be revealed, which would greatly prejudice the City's legal interest in favor of potentially adverse parties. These parties would be able to surmise the content of the legal advice given.

We believe that the information you marked on the fee bills reveals the substance of the city's request for advice, as well as attorney advice to the city. Accordingly, we conclude that the city may withhold these portions from required public disclosure based on section 552.107(1) of the Government Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", written in a cursive style.

Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 31026

Enclosures: Submitted documents

cc: Mr. Clyde Toscano
109 Shavano Drive
San Antonio, Texas 78231
(w/o enclosures)